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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
	)	DOCKET FILE COPY ORIGINAL

Motion for Extension of Time and for Waiver of Page Limits

GTE Service Corporation ("GTE"), by its attorneys and on behalf of its affiliated domestic telephone operating companies, respectfully requests the Commission to extend the time for filing reply comments in this proceeding[1] and to modify the page limit procedures that have been set for comments and replies.

Introduction

In this proceeding, the Commission will establish rules to implement the sweeping changes to national telecommunications policy enacted in the Telecommunications Act of 1996. Despite the vast array of issues that must be addressed, the Commission has established unprecedented special procedures in paragraphs 289 and 291 of the NPRM that allow only 14 days for interested parties to reply to the comments, and that set restrictive page limits on comments and replies, including exhibits, appendices, and affidavits.

[1] Notice of Proposed Rulemaking, FCC 96-182, April 19, 1996 (*NPRM*).

GTE shares the Commission's concern that this proceeding be resolved in a timely manner as required by the Act, and that the Commission base its decision on a complete record that adequately analyzes the many difficult issues involved in this case. Unfortunately, GTE believes the special procedures established in the NPRM will impair efforts by interested parties to present a full and comprehensive exposition of the major policy issues facing the Commission. Specifically, GTE submits that inclusion of appendices in the page limits, the 35 page limit for replies, and the 14 day time period for replies will preclude development of the most helpful and informative record.

GTE urges the Commission to modify the comment filing procedures to provide that: (1) exhibits, appendices, and affidavits will not be counted against the page limits; (2) the page limit for reply comments will be 50 pages; and (3) the time for filing reply comments will be 21 days after the comment due date, i.e., June 6, 1996.

Grounds for Granting Relief

The scope of the issues addressed in this proceeding is unprecedented. The changes contemplated by the Act, which must be implemented in this proceeding, are of enormous breadth and complexity, designed to "end the era of monopoly regulation," "dismantl[e] entry barriers," and "establish a national process for enhancing competition, increasing consumer choice, lowering rates, and reducing regulation." (*NPRM* ¶ 24) The rules adopted in this proceeding will have a "pervasive and substantial impact in a variety of contexts" (*id.*)—on local exchange

competition, on the economy as a whole, on jobs, and on every American consumer. To accomplish this task properly, the Commission requires—and the parties must provide in their comments—a meaningful record on the following broad topics:

- the full gamut of local exchange competition issues,
- the intricacies of applying complex new legislation,
- legal controversies over the Commission's jurisdiction under the Act,
- the Commission's appropriate role in implementing the Act,
- federal - state jurisdictional relationships,
- regulatory policies of the fifty states,
- the implications of economic principles and theories for pricing of interstate and intrastate services,
- the relevance and interrelationships of local exchange competition, universal service, and access charge reforms, and
- the existing and future technological capabilities of local exchange facilities of the nation's 1400 telephone companies.

It is scarcely necessary to emphasize the importance of this proceeding. First, the Commission proposes to substitute nationally uniform standards for the current system of state regulations designed to accommodate a variety of local conditions. Second, these proposed standards will affect the pricing of billions of dollars of LEC services annually. Third, the introduction of more competition into local telecommunications markets will have vast consequences.

Given the significance of these issues, it is not surprising that the NPRM raises an unprecedented number of questions. The NPRM packs approximately 415 questions or requests for comments into its 99 pages. (See attachment.) Of these

415 issues, 360 are included in the main May 16 filing date. It is also reasonable to expect that the breadth of this proceeding will draw comments from a large number of industry parties as well as from various public interest and governmental representatives, including local exchange carriers, interexchange carriers, competitive access providers, competitive LECs, wireless and mobile carriers, state and local governments, and consumer groups.

The page limit of 75 pages for comments will permit commenters to devote an average of only one-fifth of a page (four or five sentences) to each of the approximately 360 issues included in the May 15 comments. Yet many of the questions involve multiple parts, or call for in-depth analyses, data compilations, or studies. By counting exhibits, appendices, and affidavits in the 75 pages, the Commission will precludes parties from addressing key technological, economic, and state regulatory issues except in the most cursory and conclusory manner. Accordingly, GTE urges the Commission to relax the page limit by excluding exhibits, appendices, and affidavits, which on some issues will be essential to presenting an adequate record. This will permit the parties to supply the Commission with essential details, yet still maintain a manageable length for the comments themselves.

Even more troubling, the 35 page limit and 14 day deadline for replies are wholly unrealistic given the number of issues and the anticipated level of participation. In the much less complex Universal Service proceeding, over 200 sets of comments were filed. Obtaining, reading, and analyzing the comments, and

preparing replies will be a massive undertaking that cannot reasonably be accomplished within 14 days, even with large teams working long hours. GTE urges the Commission to allow one more week for this process, which will permit the parties to present more thoughtful, better reasoned, and more complete responses to the positions of others. This modest extension should not adversely affect the Commission's ability to issue a timely decision, because it is likely to be fully occupied itself with the large volume of opening comments during the first three weeks after they are filed. In addition, the 35 page limitation for 360 issues leaves respondents with the dilemma of omitting key points or attempting to cover more than 10 issues on each page of their replies. How can respondents be expected to reply in 35 double spaced pages to issues that occupy 34 single-spaced pages? (See attachment.) Such a page limitation plainly is too severe to allow adequate rebuttal or response to questions that may be raised. GTE therefore requests that the reply page limit be raised to 50 pages.

Section 4 of the Administrative Procedure Act requires the Commission "to give interested persons an opportunity to participate in the rule making."[2] The Commission's own rules further specify that "[a] *reasonable* time will be provided" for comments and replies.[3] Because of the complexity of the proceeding, the time and page limits set forth in the NPRM are so restrictive and unreasonable as to deny parties their right to participate in a meaningful manner. Due process

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[2] 5 U.S.C. §553(c).

[3] 47 C.F.R. §§1.415(c),(d) (emphasis added).

requires that the Commission relax these restrictions somewhat in order to afford adequate opportunities for the parties to present their views.

Conclusion

Congress has established strict deadlines for the Commission to complete its work. However Congress did not envision that the affected parties would be denied an adequate opportunity to participate in the rulemaking as the price of expedited action. Unfortunately, the procedural requirements the Commission has established will have just that effect; they will prevent meaningful participation by affected parties and will cause the Commission to develop an incomplete and inadequate record on which to base its decisions.

For the above reasons, GTE requests the Commission to modify the comment filing procedures to provide that: (1) exhibits, appendices, and affidavits will not be counted against the page limits; (2) the page limit for reply comments will be 50 pages; and (3) the time for filing reply comments will be 21 days after the comment due date, *i.e.*, June 6, 1996.

Respectfully submitted,

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May 1, 1996

APPENDIX OF QUESTIONS & ISSUES RAISED
IN CC DOCKET NO. 96-98

1. We ask commenters in this proceeding to bear in mind the relationship between these parallel proceedings and to frame their proposals within the pro-competitive, deregulatory context of the 1996 Act as a whole. (¶ 3)

2. We seek comment on such an approach and whether it would accomplish Congress's goal of promoting efficient competition in local telecommunications markets throughout the country. (¶ 27)

3. Throughout this item, we seek comment on the extent to which existing state initiatives are consistent with the new federal statute and, to the extent they are, the wisdom of using existing state approaches as guideposts or benchmarks for our national rules. (¶ 29)

4. We seek comment on the nature of such variations, and on whether there are such variations that require fundamentally different regulatory approaches...

5. If we were to decline to adopt explicit rules at all, in effect we would be permitting states to set different priorities and timetables for requiring incumbent LECs to offer interconnection and unbundled network elements. ... We seek comment on these issues. (¶ 33)

6. We seek comment on how our national rules can best be crafted to assist the states in carrying out this responsibility. (¶ 34)

7. In the succeeding sections of this Notice, we invite parties to comment, with respect to each of the obligations imposed by section 251, on the extent to which adoption of explicit national rules would be the most constructive approach to furthering Congress' pro-competitive, deregulatory goals of making local telecommunications markets effectively competitive.

8. We seek comment on the relative costs and benefits of constraining or encouraging variations among the states in carrying out their responsibilities under section 252.

9. We also invite parties to comment on whether our rules implementing section 251 can be crafted to allow states to implement policies reflecting unique concerns present in the respective states, without vitiating the intended effects of a scheme of overarching national rules.

10. We further ask parties to comment on the consequences of fostering or constraining variability among the states. (¶ 35)

11. ... We tentatively conclude that we should adopt a single set of standards with which both arbitrated agreements and BOC statements of generally available terms must comply. We believe that this is consistent with both the language and the purpose of the 1996 Act. We seek comment on this tentative conclusion. (¶ 36)

12. We also tentatively conclude that it would be inconsistent with the 1996 Act to read into sections 251 and 252 an unexpressed distinction by assuming that the FCC's role is to establish rules for interstate aspects of interconnection and the states' role is to arbitrate and approve intrastate aspects of interconnection agreements. ... We seek comment on our tentative conclusion.

13. The argument has also been raised that sections 251 and 252 apply *only* with respect to intrastate aspects of interconnection, service, and network elements. We seek comment on this argument as well. (¶ 38)

14. Section 2(b) of the 1934 Act does not require a contrary tentative conclusion. ... In enacting section 251 after section 2(b) and squarely addressing therein the issues before us, we believe Congress intended for section 251 to take precedence over any contrary implications based on section 2(b). We seek comment on this tentative conclusion. (¶ 39)

15. We note that sections 251 and 252 do not alter the jurisdictional division of authority with respect to matters falling outside the scope of these provisions. We seek comment on these issues as well. (¶ 40)

16. We also seek comment on the relationship between sections 251 and 252 and the Commission's existing enforcement authority under section 208. ...

17. We also seek comment on the relationship between sections 251 and 252 and any other source of Commission enforcement authority that may be applicable.

18. We further seek comment on how we might increase the effectiveness of the enforcement mechanisms available under the 1934 Act, as amended.

19. We seek comment on how private rights of action might be used under sections 206-208 of the 1934 Act, as amended, and the different roles the Commission might play, for example, as an expert agency, to speed resolution of disputes in other forums used by private parties. (¶ 41)

20. We seek comment on whether we should establish at this time standards and procedures by which carriers or other interested parties could seek to demonstrate that a particular LEC should be treated as an incumbent LEC pursuant to Section 251(h)(2). (¶ 44)

21. We further seek comment on whether state commissions are permitted to impose on carriers that have not been designated as incumbent LECs any of the obligations the statute imposes on incumbent LECs.

22. We seek comment on whether imposing on new entrants requirements that the 1996 Act imposes on incumbent LECs would be consistent with the Act's distinction between the obligations of all telecommunications carriers, all LECs and the additional

obligations of all incumbent LECs. (¶ 45)

23. We seek comment on the extent to which the Commission should establish national guidelines regarding good faith negotiation under section 251(c)(1), and on what the content of those rules should be.

24. We seek comment on the extent to which these or other practices should be deemed to violate the duty to negotiate in good faith. ...

25. We seek comment on specific legal precedent regarding the duty to negotiate in good faith that we should rely on in establishing national guidelines regarding section 251(c)(1). (¶ 47)

26. ... We seek comment on whether these provisions require parties that have existing agreements to submit those agreements to state commissions for approval.

27. We also seek comment on whether one party to an existing agreement may compel renegotiation (and arbitration) in accordance with the procedures set forth in section 252. (¶ 48)

28. We also, however, seek comment on the consequences of not establishing such specific rules for interconnection.

29. We seek comment on whether there are instances wherein the aims of the 1996 Act would be better achieved by permitting states to experiment with different approaches. ... (¶ 51)

30. We also encourage parties to submit information regarding the approaches taken by those states that have allowed interconnection. ... With respect to each of the issues discussed below, we invite commenters to analyze the advantages and the disadvantages of the approaches states have adopted with respect to interconnection arrangements.

31. We also seek comment on whether any elements of these state approaches would be suitable for incorporation into national standards implementing the 1996 Act.

32. Finally, we ask commenting parties to identify state approaches to interconnection that they believe are inconsistent with or preempted by the 1996 Act, or that are inadvisable from a policy perspective. (¶ 52)

33. We further seek comment on the relationship between the obligation of incumbent LECs to provide "interconnection" under 251(c)(2) and the obligation of the incumbent LEC, and all LECs, to establish reciprocal compensation arrangements for the "transport and termination" of telecommunications pursuant to 251(b)(5). (¶ 53)

34. We seek comment on how to "interpret" the term "interconnection" in section 251(c)(2). Parties that advocate the broader meaning should also comment on the overlap in the coverage of the sections and how the overlap affects which section 252(d) pricing standards apply. (¶ 54)

35. ... We seek comment on what constitutes a "technically feasible point" within the incumbent LEC's network for purposes of this section. ....

36. We tentatively conclude that, if risks to network reliability are considered in determining whether interconnection at a certain point is technically feasible, the party alleging harm to the network will be required to present detailed information to support such a claim. We seek comment on these issues and our tentative conclusion concerning claims of network harm. (¶ 56)

37. ... We seek comment on whether allowing states to designate additional technically feasible interconnection points would make it more difficult for a carrier to develop a regional or national network. ...

38. Because the statute imposes an affirmative obligation on incumbent LECs to provide interconnection at any technically feasible points in their networks, we further tentatively conclude that, where a dispute arises, the incumbent LEC has the burden of demonstrating that interconnection at a particular point is technically infeasible. We seek comment on this tentative conclusion. (¶ 58)

39. We also seek comment on which state policies are either inconsistent with the language of the 1996 Act or unwarranted from a policy perspective. (¶ 59)

40. We seek comment on how to determine whether the terms and conditions for interconnection arrangements are just, reasonable, and nondiscriminatory. For example, should we adopt explicit national standards for the terms and conditions for interconnection?

41. In particular, we seek comment on whether we should adopt uniform national guidelines governing installation, maintenance, and repair of the incumbent LEC's portion of interconnection facilities.

42. We also seek comment on whether we should adopt standards for the terms and conditions concerning the payment of the non-recurring costs associated with installation.

43. We seek comment on whether the Commission should establish incentives to encourage incumbent LECs to provide just, reasonable, and nondiscriminatory interconnection and, if so, what those incentives should be. ... (¶ 61)

44. If we were to establish national guidelines on this issue, we seek comment on state policies regarding the terms and conditions for interconnection that might serve as models. ... We specifically seek comment on whether such policies are consistent with the pro-competitive and deregulatory tenor of the Act.

45. We seek comment on whether any state substantive rules regarding the terms and conditions for interconnection might be

adopted as a national standard, as well as comment on which state rules might be inconsistent with the 1996 Act. (¶ 62)

46. ... We seek comment on what criteria may be appropriate in determining whether interconnection is "equal in quality." We seek comment on whether these criteria should be adopted as a national standard, or whether competitive objectives would be achievable by allowing variations and experimentation among states.

47. We also seek comment on relevant state requirements, such as those in Iowa, which prohibit a rate-regulated incumbent from providing inferior interconnection to another provider.

48. We invite parties to comment on this and other provisions that might guide our efforts in implementing the "equal in quality" requirement of the 1996 Act. (¶ 63)

49. ... We tentatively conclude that the Commission has the authority to require, in addition to physical collocation, virtual collocation and meet point interconnection arrangements, as well as any other reasonable method of interconnection. We seek comment on this tentative conclusion. (¶ 64)

50. We seek comment on the various state requirements concerning methods for interconnection. For example, in the state of Washington, the commission has ordered that companies establish mutually agreed upon meet points for purposes of exchanging local traffic. ...

51. We seek information on these and other similar state requirements. We seek comment on whether any state requirements concerning methods for interconnection might be appropriately adopted as a national standard.

52. We also seek comment concerning those state requirements that may be inconsistent with the 1996 Act or inappropriate from a policy standpoint. (¶ 65)

53. We also seek comment on the extent to which we should establish national rules for collocation that allow for some variation among states, and on the advantages and disadvantages of permitting such variation.

54. Would permitting material variation foster competition and make it easier for states to respond more appropriately to issues specific to that state or region?

55. Would variations in technical requirements among states affect the ability of new entrants to plan and configure regional or national networks?

56. Would a lack of specific national standards reduce predictability and certainty, and thereby slow down the development of competition?

57. Would a lack of explicit guidelines impair the state's ability to complete arbitration within 9 months of the date that the interconnection request was made, or our ability to evaluate

BOC compliance under section 271 within the statutory time-frame?

58. Would a lack of specific national standards impair our ability under section 252(e) to assume a state commission's responsibilities if the state commission fails to act to carry out its responsibilities under section 252? (¶ 68)

59. We also encourage parties to submit information concerning specific state approaches regarding collocation that might provide useful models for national guidelines. ... (¶ 69)

60. We seek comment on whether one or more of these state collocation policies would be suitable for use as a national standard.

61. We also seek comment on state policies that commenters believe are inconsistent with the goals of the 1996 Act, or that are inadvisable from a policy perspective.

62. In this regard, parties are specifically asked to comment on the possible consequences of requiring new entrants with regional or national business plans to comply with divergent state requirements. (¶ 70)

63. In light of our tentative conclusion that we should adopt national guidelines concerning physical and virtual collocation, we seek comment on what specific regulations would foster opportunities for local competition. ...

64. We seek comment on this tentative conclusion. We also seek comment on whether structures housing LEC network facilities on public rights of way, such as vaults containing loop concentrators, or similar structures should be deemed to be LEC premises. (¶ 71)

65. ... We seek comment on what types of equipment competitors should be permitted to collocate on LEC premises. ...

66. We seek comment on whether we should establish guidelines for states to apply when determining whether physical collocation is not practical for "technical reasons or because of space limitations," and, if so, what those guidelines might be.

67. We also seek comment on whether national guidelines may be necessary to prevent anticompetitive behavior by the manipulation or unreasonable allocation of space by either the incumbent LEC or new entrants. (¶ 72)

68. Finally, we seek comment on whether we should adopt comprehensive national standards for collocation by readopting our prior standards governing physical and virtual collocation that we established in the *Expanded Interconnection* proceeding. ...

69. We also seek comment regarding whether we should modify those standards, in light of: (1) the new statutory requirements; (2) disputes that have arisen in the subsequent investigations regarding the LECs' physical and virtual collocation tariffs; or (3) additional policy considerations.

70. We also tentatively conclude, in light of the court decision in *Pacific Bell v. FCC*, ... We seek comment on this tentative conclusion. (¶ 73)

71. ... As a result of this provision, and the obligation created by section 251(d)(1), we tentatively conclude that section 251 obligates the Commission to identify network elements that incumbent LECs should unbundle and make available to requesting carriers under subsection (c)(3). ... We seek comment on these tentative conclusions. (¶ 77)

72. In light of our obligations under sections 251(d)(1) and 251(d)(2), we also seek comment on whether and to what extent, beyond merely identifying network elements that incumbent LECs must provide on an unbundled basis pursuant to subsection (c)(3), the Commission should establish minimum requirements governing such unbundling. ... (¶ 79)

73. We also seek comment on whether and to what extent we should establish national rules for unbundled network elements that allow for some variation among states. ...

74. Would variations in technical requirements among states affect the ability of new entrants to plan and configure regional or national networks?

75. Would a lack of explicit requirements impair a state's ability to complete arbitrations within the prescribed time-frame, or our ability to evaluate BOC compliance under section 271 within 90 days?

76. Would a lack of clear national rules impair our ability under section 252(e) to assume a state commission's responsibilities if the state commission fails to act to carry out its responsibilities under section 252? (¶ 80)

77. We also encourage parties to provide us with information regarding the policies that states have adopted to address network unbundling. ... We seek comment on the policies that other states have adopted. (¶ 81)

78. Finally, with respect to each of the issues discussed below, we request comment on whether any existing state approaches, alone or in combination, would be suitable for incorporation into national rules implementing section 251(c)(3).

79. We also ask commenting parties to identify state approaches that they believe are either inconsistent with the 1996 Act or that are inadvisable from a policy perspective. (¶ 82)

80. ... We seek comment on our more flexible interpretation of "network element," and how to apply the definition in accordance with the unbundling proposals discussed below. (¶ 83)

81. We also seek comment on the apparent distinction, drawn

in the definition of "network element" in the 1996 Act, between the "facility or equipment used in the provision of a telecommunications service," and the service itself.

82. We request comment on the meaning and significance of such a distinction in general and with respect to particular elements. ... (¶ 84)

83. In addition, we request comment on the relationship between section 251(c)(3), concerning unbundling, and section 251(c)(4), which addresses resale of incumbent LEC services.

84. Specifically, may requesting carriers order and combine network elements to offer the same services an incumbent LEC offers for resale under subsection (c)(4)?

85. Does subsection (c)(3) in effect provide new entrants with an alternative way to "resell" the services of incumbent LECs in addition to the specific resale provision in subsection (c)(4)?

86. In this regard, we note that section 252(d) provides different pricing standards for these two subsections, and we ask commenters to address the implications of this difference. ...

87. Does the difference, if any, between network elements and the services provided by means of such elements play a meaningful role in distinguishing these two subsections?

88. We invite parties to comment on these and any other issues raised by the interplay of subsections (c)(3) and (c)(4). Parties should base their comments on specific statutory language. (¶ 85)

89. Section 251(c)(3) requires incumbent LECs to provide "access" to network elements "on an unbundled basis." ... We seek comment on this and any alternative interpretations of section 251(c)(3). (¶ 86)

90. Section 251(c)(3) further mandates that incumbent LECs provide access to network elements on an unbundled basis "at any technically feasible point." Parties are asked to identify and describe, in brief, each network element for which they believe access on an unbundled basis is technically feasible at this time.

91. Further, we seek comment on whether a dynamic definition of "technically feasible" is practical for identifying elements beyond those discussed here, and, if so, what such a definition should be.

92. We also ask whether the states, rather than the Commission, may apply the definition during the arbitration process.

93. We further request that parties comment on experiences with providing or purchasing access to elements currently unbundled by the states, and any state approaches to determining the technical feasibility of unbundling elements that the Commission could use in a national model.

94. We also seek comment on whether the technical feasibility of interconnection at a particular point affects, at least in part, the technical feasibility of providing access to a network element on an unbundled basis at that point. ...

95. We seek comment on these tentative conclusions. (¶ 87)

96. ... We seek comment on the extent to which the Commission must "consider" these standards, how these standards should be interpreted, and on any additional considerations, such as possible risks to network reliability or other harm. ...

97. We note that the 1996 Act uses the terms "technically feasible" and "economically reasonable" together in other sections of the Act, and we seek comment on what effect the absence of the term "economically reasonable" in section 251(c)(3) has on economic considerations.

98. Further, we request comment on whether this omission could be construed to imply that Congress intended for carriers requesting unbundling to pay its cost, and on whether that construction is consistent with the intent of the 1996 Act. (¶ 88)

99. We also request comment on whether the Commission should establish minimum requirements governing the "terms" and "conditions" that would apply to the provision of all network elements. ...

100. For example, should the Commission require incumbent LECs to provide network elements using the appropriate installation, service, and maintenance intervals that apply to LEC customers and services?

101. Alternatively, should the Commission require LECs to comply with national or industry-based standards?

102. Would minimum national requirements for electronic ordering interfaces reduce the time and resources required for new entrants to compete in regional markets?

103. What standard unbundling terms and conditions, if any, should the Commission use in evaluating applications under section 271(b)?

104. Would national rules aid the states in arbitrating agreements within the statutory period?

105. If parties believe that the Commission should specify minimum terms and conditions, we seek comment on what those terms and conditions should be, and how those terms and conditions might be enforced. Parties are encouraged to cite specific examples from the states that could be incorporated into minimum national requirements. (¶ 89)

106. In addition, we request comment on the meaning of the requirement in section 251(c)(3) that LECs provide unbundled

network elements "in a manner that allows requesting carriers to combine such elements in order to provide . . . telecommunications service."

107. For example, should the required facilities or services associated with a particular network element vary depending on the services the requesting carrier wishes to provide or on the types of facilities the requesting carrier will use in combination with the requested elements?

108. We also seek comment on the relationship between this provision and section 251(d)(2)(B), discussed above, which requires the Commission to consider whether the failure to provide access to an element would impair the ability of a requesting carrier to provide a desired service. (¶ 90)

109. ... We seek comment on what minimum requirements, if any, we should adopt to ensure that LECs do not discriminate among requesting carriers. ...

110. Nevertheless, we request comment on whether we can and should prohibit an incumbent LEC from providing requesting carriers with access inferior to that which it provides itself. (¶ 91)

111. We address below four categories of elements: loops, switches, transport facilities, and signaling and databases. For each of the proposed network elements discussed in these categories, we request that parties comment on the following issues:

112. the technical feasibility of providing access to that or an equivalent element on an unbundled basis, how such access should be provided, and any demonstrable network reliability concerns;
113. whether and to what extent LECs currently allow other carriers to access such elements;
114. whether the Commission should establish a standard for defining the element, and if so, what level of technical detail is required in the definition, and what facilities or functionalities should be included or excluded from the definition;
115. whether the Commission should establish minimum requirements for the terms and conditions of provisioning the element, and if so, what they should be;
116. whether the failure to unbundle the element would impair a requesting carrier's ability to provide the services that it seeks to offer;
117. whether proprietary interfaces or technology are involved in providing the element, and if so, whether unbundled access to the element is necessary; and
118. any other issues presented by the unbundling of this element that are important to effectuating the goals of section 251(c)(3) and the 1996 Act. (¶ 93)

119. We first seek comment on whether and the extent to which the Commission should prescribe a set of minimum requirements for unbundling and provisioning loops. ... (¶ 95)

120. ... In view of such complex and resource-intensive issues, we seek comment on whether there are minimum requirements that would build upon the progress of preexisting state initiatives and facilitate the provisioning of unbundled loops.

121. What requirements, for example, would avoid the need for duplicative decision-making by states and variations among states in the effectiveness of loop unbundling, while better enabling new entrants to plan and fund regional networks?

122. To what extent is the avoidance of interstate duplication and variation necessary to achieving the goals of the 1996 Act?

123. How should the Commission structure national requirements to provide sufficient flexibility to carriers and the states for use of different or new "loop" technologies or services? (¶ 96

124. In addition, we tentatively conclude that we should require further unbundling of the local loop. We seek comment on which subloop elements are technically feasible to unbundle. ...

125. We thus seek comment on whether requiring access to loops prior to their concentration or multiplexing would allow requesting carriers to provide services they could not provide at LEC central offices, and whether such access would involve proprietary equipment.

126. Finally, we request comment on what minimum requirements for subloop unbundling, at this early stage where few if any states have addressed the issue, would pave the way for rapid adoption and provision of subloop elements. (¶ 97)

127. .... We seek comment on whether such a definition of "port" is consistent with the requirements of section 251(c)(3), especially the requirement that incumbent LECs provide elements in a manner that allows carriers to combine them to provide telecommunications services.

128. Further, we seek comment on alternative definitions of "port," and on whether the port should be a separate unbundled element from the switch. (¶ 101)

129. We also request comment on these and alternative approaches to unbundling the local switch, and on the technical feasibility of such approaches.

130. Under the switching platform approach, for example, what control, if any, can and should requesting carriers have over the operations of a LEC local switch, and is access to proprietary functions or equipment necessary?

131. Further, should the Commission identify several permissible approaches to switch unbundling, and what minimum requirements, if any, should apply?

132. What requirements of switch unbundling would help the

Commission in evaluating applications under section 271(b), and the states and the courts in arbitrating and evaluating agreements between carriers? (¶ 102)

133. Finally, in conjunction with the next section addressing transport facilities, we request comment on whether requirements governing a local switching element could be tailored to apply to a tandem switching element. ... (¶ 103)

134. We seek comment on the technical feasibility of unbundling direct-trunked and tandem-switched transport and special access facilities in this or in any alternative manner, and on how LECs should unbundle any other network facilities used to transport traffic from LEC central offices to IXC POPs or to other LEC central offices. (¶ 106)

135. ... We request that commenters identify the points at which carriers interconnect with LEC SS7 networks today and the signaling and database functions currently provided by incumbent LECs on an unbundled basis.

136. Commenters should also discuss the technical feasibility of establishing other points of interconnection and other unbundled signaling and database functions not currently offered by incumbent LECs. (¶ 108)

137. ... Does the variation among the Colorado, Hawaii, and Louisiana regulations governing unbundled signaling and databases reflect differing circumstances that should be accommodated in our rules?

138. Would such variation among states be consistent with the goals of the 1996 Act?

139. Would new entrants be better served by uniform federal rules concerning unbundled access to signaling systems and databases?

140. If so, would any of the regulations adopted by the states be useful to incorporate into national rules? (¶ 109)

141. We also seek comment on the relative importance to potential entrants of the various functions performed by incumbent LECs' signaling systems and databases. ...

142. What bearing, if any, should this have on our adoption of unbundling rules for call set up?

143. Are there existing suppliers for other functions performed by incumbent LECs' signaling systems and databases? (¶ 110)

144. ... We seek comment on the importance of unbundled access to the incumbent LEC's advanced call processing features, such as single number service, in the market entry decisions of potential competitors.

145. We also seek comment on whether the software "building blocks" used by incumbent LECs to create call processing services

are network elements to be unbundled. ...

146. We also seek comment on whether it would be consistent with the 1996 Act to permit variation among states with regard to unbundling call processing services provided via remote databases. (¶ 111)

147. ... We seek comment on whether this type of interconnection is technically feasible without jeopardizing network reliability. (¶ 112)

148. ... We seek comment on what role, if any, the LEC proposal for a testing program should play with regard to access to signaling and database elements that we address in this proceeding. (¶ 113)

149. ... We seek comment on whether mandating the unbundling of signaling systems and databases pursuant to section 251 would be sufficient to meet the objectives of the IN proceeding.

150. To the extent that section 251 does not require incumbent LECs to provide certain third parties with access to unbundled AIN elements, we seek comment on whether we should use our section 201 authority to require such access.

151. We also seek comment on how the unbundling of signaling systems and databases in this proceeding should affect our actions in the IN proceeding. (¶ 114)

152. ... We seek comment on whether such a restriction should be implemented in federal standards.

153. Are there other state regulations concerning access to competitors' CPNI that would prevent this type of anticompetitive conduct while allowing us to establish interconnection and unbundling rules for signaling and database facilities? (¶ 115)

154. Finally, we request comment on other network elements to which the Commission should require access on an unbundled basis, and specific standards that should govern their unbundling. ...

155. We seek comment on this tentative conclusion. (¶ 116)

156. Section 251, in some instances, explicitly sets forth requirements regarding rates for service, interconnection, and unbundled elements. ... We seek comment on this tentative conclusion. (¶ 117)

157. ... We seek comment on these tentative conclusions.

158. We also seek comment on the potential consequences if the Commission does not set specific pricing principles. ... (¶ 119)

159. Finally, consistent with our earlier discussion that sections 251 and 252 do not make jurisdictional distinctions between interstate and intrastate services and facilities, ... We seek comment on this tentative conclusion.

160. We also seek comment on whether we need to revise our cost allocation rules in Part 64, or whether we need to adopt a similar set of cost allocation rules to remove the costs and revenues of services provided pursuant to sections 251 and 252 before the separations process is applied. (¶ 120)

161. ... We seek comment on the proper interpretation of each of these statutory provisions.

162. We also seek comment on any specific principles that parties believe the Commission should promulgate to ensure that the rates established or approved by states are just, reasonable, and nondiscriminatory.

163. We seek comment below on the national pricing principles that states might apply in setting and reviewing rates for interconnection, collocation, and access to unbundled network elements.

164. We also seek comment on what enforcement or monitoring mechanism, if any, the Commission or the industry should adopt to ensure that all carriers comply with any pricing principles that the Commission establishes. (¶ 121)

165. ... We invite parties to comment on whether there are any reasons to make a distinction. In addition, we believe that the same pricing rules that apply to interconnection and unbundled network elements should apply to collocation as required under section 251(c)(6).

166. In particular, we seek comment on whether the absence of any pricing rule for collocation in section 252 has any legal significance with regard to our authority to specify rules for pricing of collocation services.

167. Alternatively, should collocation be considered a subset of interconnection services, pursuant to sections 251(c)(2) and 252(d)(1) for purposes of the statutory pricing principle? (¶ 122)

168. We seek comment on this view of the meaning of section 252(d)(1). (¶ 123)

169. ... In particular, we seek comment on precise definitions for the following terms: LRIC, TSLRIC, forward-looking costs, joint costs, common costs, shared costs, and stand-alone costs.

170. We also seek comment on the definition of the following related terms: embedded costs, fully distributed costs (FDC), overheads, contribution, and residual costs. ...

171. Does this continue to be an appropriate definition of LRIC?

172. In what respects, if at all, does a TSLRIC analysis differ from a LRIC analysis?

173. Commenters should explain how any methodology they support should be calculated, and how such an approach differs from other possible costing methodologies. (¶ 126)

174. We invite parties to comment on the costing methodologies used by these and other states, and on the extent to which these approaches are consistent with the pricing principles and goals of the 1996 Act.

175. We also seek comment on whether the approach taken by any state regarding pricing interconnection, collocation, and unbundled network elements can be used as a model for a federal policy for these services and facilities.

176. Are the existing state standards substantially the same or materially different?

177. If there are significant differences, what are the costs and benefits of such variation to economic efficiency and a national, pro-competitive communications policy?

178. We note that, while several states have identified specific costing methodologies and have ordered incumbent LECs to offer unbundled network elements at rates based on LRIC, most states have not yet acted in this area. (¶ 128)

179. We seek comment on these alternative approaches, or variations, in terms of their compliance with the statute, including the statutory provision that rates "may include a reasonable profit," and their respective advantages and disadvantages. (¶ 129)

180. We also seek comment on how, if rates are to be set above LRIC, to deal with the problems inherent in allocating common costs and any other overheads. ...

181. We also seek comment on whether, regardless of the method of allocating common costs, we should limit rates to levels that do not exceed stand-alone costs. (¶ 130)

182. Parties should specify their reasons for supporting or objecting to a particular costing model, and on what types of LRIC-based pricing methodology would be consistent with the 1996 Act.

183. Parties that favor a particular methodology should explain how their proposals satisfy the statutory requirement that cost-based rates be determined "without reference to a rate-of-return or other rate-based proceeding."

184. They should also address how their methodologies would comply with the statutory requirement that rates for interconnection and unbundled elements "may include a reasonable profit."

185. We also seek comment on whether the "reasonable profit" provision should be interpreted to mean that rates should yield reasonable levels of return on capital (including assessment of risk).

186. Parties are encouraged to provide examples of states that have used the particular methodology that they support, or other illustrative evidence to indicate how such a standard would be applied.

187. Should the LRIC-based methodology that any particular state has used be adopted as a national policy for interconnection and unbundled elements, or should a number of existing state approaches be identified as acceptable options?

188. We invite parties to propose other approaches, and to delineate with particularity how their proposal differs from the approaches described above.

189. Parties should also address the practicality of such approaches in a state arbitration setting, including the extent to which they would be clear and relatively easy to derive with a minimum of controversy and delay, and the administrative burdens associated with such approaches. (¶ 131)

190. We also seek comment on a transitional pricing mechanism during an interim time period.

191. Should we adopt an easily implementable interim approach that would address concerns about unequal bargaining power in negotiations, followed by some sort of transition mechanism to a more permanent set of pricing principles? (¶ 132)

192. We seek comment on whether interconnection and unbundled element rates should be set on a geographically- and class-of-service-averaged basis for each incumbent LEC, or whether some form of disaggregation would be desirable.

193. If interconnection and unbundled element rates should be disaggregated, what level of disaggregation would be appropriate -- by density pricing zone, LATA, exchange, or some other unit?

194. What types of class-of-service disaggregation are appropriate?

195. For example, should incumbent LECs be permitted to charge different rates for unbundled business and residential loops, or for unbundled loops using different technologies?

196. What rate differentials would be reasonable?

197. We further seek comment on whether some cost index or price cap system would be appropriate to ensure that rates reflect expected changes in unit costs over time. (¶ 133)

198. We also seek comment on the benefits, if any, of adopting a national policy of outer boundaries for reasonable

ates instead of specifying a particular pricing methodology.

199. We therefore seek comment on whether a ceiling to protect against excessive rates for unbundled elements and services would be the best means of furthering the pro-competitive goals of the 1996 Act. (¶ 134)

200. ... We seek comment on this approach, and request parties that favor a particular approach to explain how that approach is consistent with these principles. (¶ 135)

201. We seek comment on the use of a proxy for a cost-based rate ceiling. Would setting a ceiling based on a proxy fulfill the statutory mandate of section 252(d)(1) and the obligation under section 251 to ensure that rates are just and reasonable?

202. We also seek comment on other possible approaches that would satisfy the requirements of the statute. (¶ 136)

203. We seek comment on whether this or other cost studies would serve as an appropriate proxy for constraining rates that states may set for interconnection and unbundled network elements.

204. We also seek comment on the extent to which any study we rely on in establishing proxies should reflect geographically divergent factors such as population density. (¶ 137)

205. A third possible method for establishing a ceiling for the pricing of certain unbundled network elements could be a subset of the incumbent LECs' existing interstate access rates, charged for interconnection with IXCs and other access customers, or an intrastate equivalent. ...

206. We seek comment on this analysis.

207. We also seek comment on whether this subset of access charges, or some other proxy, could be used on an interim basis, with some transition mechanism to move towards rate ceilings based on economic costs. (¶ 139)

208. We seek comment on whether all or part of the CCLC and TIC should be excluded from any ceilings applicable to unbundled local switching or transport elements. ...

209. We seek comment on the possible use of these prices as ceilings for the same unbundled elements under section 251. (¶ 140)

210. Deriving an appropriate ceiling for unbundled local loops using a method not requiring cost studies clearly raises its own set of difficulties. ... To address the first issue, we seek comment on whether a ceiling for unbundled loop rates could be based on the sum of the following:

211. (1) the existing SLC,

212. (2) an imputed flat-rate charge based on the CCLC paid by a customer with average usage, such as that we permitted

Rochester Telephone to implement last year, and

213. (3) some subset of intrastate local exchange rates. We solicit comment on how such a ceiling could be implemented. We recognize that, while using some subset of existing prices as a ceiling may be administratively simple, that ceiling may not tightly correlate with a TSLRIC definition of costs, ...

214. and thus we seek comment more broadly on other possible administratively simple methods for setting a ceiling for the price of an unbundled loop to be applied by the states in an arbitration under sections 251 and 252.

215. We note that we have referred to a Federal-State Joint Board established under section 254 the question of whether and how the existing subsidy to reduce the level of the SLC should be changed, and we seek comment on how the current system for separating and recovering common line costs, as well as various pending proposals before the Joint Board, should affect our analysis. (¶ 141)

216. We seek comment on whether such an average usage factor, a geographically disaggregated usage factor, or some alternative methodology, would be appropriate for converting per-minute rates to flat rates, or vice versa.

217. We also seek comment on how such a proxy-based ceiling could be applied on a service-by-service or element-by-element basis if services are unbundled in different configurations from the methods set forth in the proxy. (¶ 142)

218. As the counterpart to ceilings, we seek comment on whether it is necessary or appropriate for us to establish floors for interconnection and unbundled element prices, *i.e.*, the lower end of a reasonable range within which state commissions could establish rate levels.

219. What would be the potential competitive benefits or detriments of setting a floor for interconnection, collocation, and unbundled element rates?

220. Are they needed to protect incumbent LECs from confiscatory regulatory action?

221. If they are needed, how should they be calculated? ...

222. How would this affect the implementation of price floors, or the desirability of such floors? (¶ 143)

223. We seek comment on the extent to which embedded or historical costs should be relevant, if at all, to the determination of cost-based rates under section 252(d)(1).

224. We seek comment on the empirical magnitude of the differences between the historical costs incurred by incumbent LECs (or historical revenue streams) and the forward-looking LRIC of the services and facilities they will be providing pursuant to